

**SPECIAL SESSION
July 26, 2007**

The Board of Supervisors of Maricopa County, Phoenix, Arizona, convened in Special Session at 4:00 p.m., July 26, 2007, in the Sonoran Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members attending telephonically: Fulton Brock, Chairman, District 1; Don Stapley, District 2, and Mary Rose Wilcox, District 5. Supervisor Kunasek, District 3, was present. Absent: Max W. Wilson, District 4. Also present: Fran McCarroll, Clerk of the Board and Liz Evans, Minutes Coordinator. Dean Wolcott, Counsel for the Board, attended telephonically. Votes of the Members will be recorded as follows: aye-no-absent-abstain.

The Clerk confirmed the telephonic attendance of Chairman Brock, Supervisor Stapley, Supervisor Wilcox and Attorney Dean Wolcott.

FILE AN AMICUS CURIAE BRIEF

Item: Approve the filing of an Amicus Curiae Brief by Maricopa County supporting Apache County in its appeal from the lower court's decision in Hounshell v. Apache County Board of Supervisors, 1 CA-CV06-0728. The Apache County Board of Supervisors has filed an appeal to the Arizona Court of Appeals from the lower court's decision that a county board of supervisors cannot take disciplinary action against an errant county employee in a situation where an appointing authority inappropriately refuses to act. Because of the statewide importance of this matter and the potential impact of the Court of Appeals' decision on every county in Arizona, the County Manager recommends that the Board authorize the filing of an amicus curiae brief by Maricopa County supporting the position of the Apache County Board of Supervisors. This matter was discussed in Executive Session on July 23, 2007 and July 25, 2007. This item was continued from the July 25, 2007 Formal Board Meeting. (C2008001M00)

After clarifying those in attendance for the record, Ms. McCarroll read the posted agenda item (as given above) at the Chairman's request. The Brief supports the position that a Board of Supervisors has the authority to discipline an errant county employee when an appointing authority refuses to do so. Supervisor Stapley moved to approve the filing of this Amicus Curiae Brief. Supervisor Wilcox commented that she had some concerns because she believes that the lawsuit may be flawed, but has decided to support it based on the County Manager's recommendation, and she seconded the motion.

Supervisor Stapley remarked that he felt that this brief would help to get clarification around the issue, and that it would be wise to do so. Supervisor Kunasek stated that he was not prepared to support the Brief at this point. He commented that the independence of public officials should not be taken lightly and that he was not comfortable taking a position that could potentially allow the Board to reach into another elected official's personnel to take disciplinary or corrective action. Supervisor Kunasek said he believes that there are already sufficient systems and procedures in place, and that this type of legal action is not needed. He also said he believes that there are not enough fail-safe provisions within the Brief to avoid the abuse of power.

Supervisor Stapley clarified that the Brief only pertained to extraordinary circumstances, and Supervisor Kunasek asked him to define extraordinary circumstances. Supervisor Stapley said that he believed the circumstances were described in the Brief, and Ms. McCarroll was asked to read a portion of the Brief relating to the circumstances under which a Board of Supervisors might intervene. Supervisor Stapley then said he understood this to mean that the Board could intervene only when an elected official has refused to honor law and policy. Supervisor Kunasek responded by saying that law and policy were very different, and the judicial system is in place to deal with violations of the law.

MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK

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Chairman Brock called for the vote and announced that the filing of an Amicus Curiae Brief was approved with Supervisors Brock, Stapley and Wilcox voting "aye", Supervisor Kunasek voting "nay" (3-1-1), and Supervisor Wilson absent.

MEETING ADJOURNED

There being no further business to come before the Board, the meeting was adjourned.

Fulton Brock, Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board